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DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

[Claim for Money Withheld for Alleged Violation of Davis-Bacon Act]

FILE: B-198964

DATE: June 18, 1980

MATTER OF:

Jordan & Nobles Construction Co. and
Thermal Control, Inc.

DIGEST:

DLG04780
CNA01086

Dispute over whether employees covered by Davis-Bacon Act were paid in accordance with work classification established by prevailing area practice and whether liquidated damages withheld under Contract Work Hours and Safety Standards Act were correct is left for resolution under procedure provided in contract.

By letter of November 30, 1979, counsel for Jordan & Nobles Construction Co. (Jordan & Nobles) and Thermal Control, Inc. (Thermal), requested our Office to consider a claim in connection with construction work at Ft. Bliss, Texas, under contract No. DACA63-77-C-0098.

The claim is the result of the contracting officer's withholding of \$1,724.44 to cover alleged underpayment of wages in violation of the Davis-Bacon Act, 40 U.S.C. § 276a (1976), and \$30 for liquidated damages for three alleged violations of the Contract Work Hours and Safety Standards Act, 40 U.S.C. § 327, et seq. (1976).

The claimants contend that there were no Davis-Bacon violations because the employees were paid in accordance with the work classifications established by prevailing area practice. The basis for the disagreement over the liquidated damages withholding is not explained.

We have been advised that the contract contains the "Disputes Concerning Labor Standards" clause which provides:

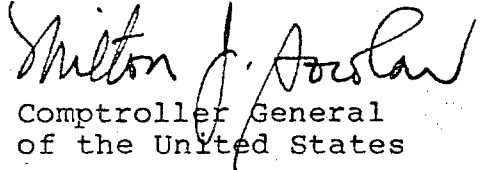
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"Disputes arising out of the labor standards provisions of this contract shall be subject to the Disputes clause except to the extent such disputes involve the meaning of classifications or wage rates contained in the wage determination decision of the Secretary of Labor or the applicability of the labor provisions of this contract which questions shall be referred to the Secretary of Labor in accordance with the procedures of the Department of Labor."

The Government cannot be deprived of the benefits of the administrative machinery it has provided to adjudicate disputes. 37 Comp. Gen. 568, 570 (1958).

Accordingly, our Office will take no action on the claim and will leave it to resolution under the procedures provided in the contract.


Acting Comptroller General
of the United States